



#15/ald
7-15-04

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

ATTY. 'S DOCKET: MARMUR=2

In re Application of:) Art Unit: 2633
Oren MARMUR)
Appln. No.: 09/500,823) Examiner: David C. Payne
Filing Date: February 10, 2000) Washington, D.C.
For: METHOD AND SYSTEM FOR) June 2, 2004
COMMUNICATION PROTECTION) Confirmation No. 3103
)

PETITION TO VACATE HOLDING OF ABANDONMENT¹

U.S. Patent and Trademark Office
2011 South Clark Place
Customer Window, Mail Stop
Crystal Plaza Two, Lobby, Room 1B03
Arlington, Virginia 22202

RECEIVED

JUN 07 2004

Technology Center 2600

Sir:

Applicant is in receipt of the Notice of Abandonment, mailed May 19, 2004, which **erroneously** states that the application is abandoned because of applicant's failure to file a response within the time period established by the Office Action mailed October 20, 2004. It is respectfully noted that the official action of October 20, 2004 was an Advisory Action, whereby a reply was due in response to the time period established by the final official action of May 22, 2003.

¹ If a fee must be charged, please charge same to Deposit Account No. 02-4035, and then refund said fee as the holding of abandonment is erroneous and is entirely the fault of the PTO.

Page 2

June 2, 2004

It is respectfully requested that such Notice of Abandonment be vacated as being erroneous and that the present application be reinstated.

THE FACTS

Applicant timely and properly responded within the time period established by the Final Office Action dated May 22, 2003, by timely filing a Request for Continued Examination (RCE) on October 21, 2003, with a Petition for Two (2) Months' Extension of Time and patent of the petition fee.

As evidence that such RCE was timely and properly filed on October 21, 2003, attached hereto is a xerographic copy of the return postcard date-stamped by the PTO Mail Room as having been timely received by the PTO on October 21, 2003.

As it appears that the RCE filed on October 21, 2003, has been lost by and in the PTO, attached hereto is a duplicate signed copy of the timely filed Reply (entitled "Request for Continued Examination) dated October 21, 2003, and related papers. **However, as the fees for filing a Request for Continued Examination and two months' extension of time have already been paid, this executed copy is not to be taken as authorization to charge said filing fee or extension of time fee. No further fees are required at this time.**

Page 3

June 2, 2004

REMARKS

In view of the above evidence, it is clear that a Reply (RCE) was timely and properly filed within the time period established by the Office Action mailed on May 22, 2003, and that the Notice of Abandonment has been issued in error. Indeed, the postcard by itself should be sufficient, as MPEP Section 503 states:

A postcard receipt which itemizes and properly identifies the papers which are being filed serves as prima facie evidence of receipt of the PTO of all items listed thereon the date stamped thereon by the PTO.

It accordingly requested that the Notice of Abandonment be vacated and the present application be reinstated.

BROWDY AND NEIMARK, P.L.L.C.
Attorneys for Applicant

By



Sheridan Neimark

Registration No. 20,520

SN:edg

Telephone No.: (202) 628-5197

Faxsimile No.: (202) 737-3528

G:\BN\E\eci\Marmur2\Pto\patent erroneous abandonment.doc